

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 481 of 2010

wednesday, this the 25th day of January, 2012

CORAM:

**HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

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13. K.C. Vinod
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 Residing at Chakkachamparambil
 Kaitharam (P.O), N. Paravoor – 683 519. - Applicants

(By Advocate M/s. Dandapani Associates)

Versus

1. Union of India, represented by
 Secretary, Ministry of Defence
 New Delhi.
2. The Director General of Medical Services
 A.G.'s Branch, Ministry of Defence
 New Delhi.
3. The Flag Officer Commanding-in-Chief
 Southern Naval Command, Kochi
4. Secretary to Government of India
 Ministry of Health and Family Welfare
 New Delhi. - Respondents.

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 18.01.2012, the Tribunal on 25.01.12 delivered the following:

ORDER

HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicants in this O.A. claim that they are working as ambulance drivers in INHS Sanjivani, Southern Naval Command. The post of Driver is a Group-C (Non-Ministerial) post. But they are not included in the category of personnel in Group 'C' and 'D' (Non-Ministerial) in the medical establishment in the Navy for grant of Hospital Patient Care Allowance (HPCA) of Rs.700/Rs.695 per month as per the impugned order dated 02.12.2009 at Annexure A-4.



2. The applicants contended that the action of the respondents not to include them in the category eligible for HPCA when they are eligible for the same as per Government Order No. 7(1)/2000/D(Med) dated 17.11.2005 is illegal as they are in constant touch with the patients. As ambulance drivers, their work includes carrying patients as part of shifting patients to ambulance and hospital.

3. In the reply statement filed by the respondents, it was submitted that the applicants have been appointed as Civilian Motor Drivers and not as ambulance drivers. They are detailed for driving various types of vehicles including ambulance as and when necessity arises. There is a separate cabin for drivers in the ambulance and competent medical person accompanies the patient while being shifted. Therefore, there is no necessity for the drivers to have constant touch with patients while driving ambulance. Their regular duties do not involve continuous and routine contact with the patients. The category of driver is not included in the list of eligible categories for grant of HPCA in the Government order dated 07.11.2005.

4. In the rejoinder, the applicants submitted that in most cases when the patients are taken to hospital, they are being sent alone. If a patient is taken in a stretcher, driver's assistance is required for taking out the stretcher to the hospital. In support, random Duty Register from 2004 to 2009 in respect of the 1st applicant is produced in Annexure A-6.

5. In the additional reply, the respondents submitted that the duties of Civilian Motor Drivers allocated with INHS Sanjivani, are to drive all the vehicles

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available in the units on rotation basis. The applicants are not detailed for driving ambulance regularly. Their regular duties do not have continuous and routine contact with patients as they are not detailed for patient care duties.

6. We have heard Mr. U. Balagangadharan for M/s. Dandapani Associates, learned counsel for the applicants and Mr. Sunil Jacob Jose, SCGSC, learned counsel for the respondents and perused the records.

7. The statement that the applicants are working as ambulance drivers in INHS Sanjivani, Southern Naval Command, is not correct. They are appointed as Civilian Motor Drivers whose duties involve driving various types of vehicles including ambulance as and when occasion arises. Their claim that they are ambulance drivers is, therefore, not factual.

8. The applicants claim that they are eligible for HPCA as per Government order No. 7(1)/2000/D(Med) dated 17.11.2005. The criterion No. (iii) from the said order is extracted as under :

"(iii) The condition which an organization must satisfy before its employees can be considered for grant of Hospital Patient Care Allowance :

Only persons (Group 'C' & 'D' (Non-Ministerial employees)) whose regular duties involve continuous and routine contact with patients infected with communicable diseases or those who have to routinely handle, as their primary duty, infected materials, instruments and equipments which can spread infection as their primary duty may be considered for grant of Hospital Patient Care Allowance. It is further clarified that HPCA shall not be allowed to any of those categories of employees whose contact with patients or exposure to infected materials is of an occasional nature."

(emphasis supplied)



9. As per the above criterion, only Group 'C' and 'D' (Non-Ministerial) employees whose regular duties involve continuous and routine contact with patients infected with communicable diseases or handling of infected articles can only be considered for grant of HPCA. The regular duties of the applicants involve driving various types of vehicles including ambulance as and when occasion arises. Their regular duties do not involve continuous and routine contact with patients infected with communicable disease or handing of infected materials. As per the prescribed criterion, the applicants are not entitled to grant of HPCA.

10. The contention of the applicants is that their work includes carrying patients as part of shifting patients to ambulance and hospital. First of all, driving ambulance is occasional in nature. Even when driving ambulance as and when occasion arises, there is no necessity for them to have constant touch with patients and not all the patients may be having communicable disease. Even if they assist in taking a stretcher with patient to the hospital, it is of occasional nature. It has been clarified in the criterion extracted above that HPCA shall not be allowed to any of those categories of employees whose contact with patients or exposure to infected materials is of an occasional nature. The photo copy of Randum Duty Register for the period 2004 to 2009 or the duty roster does not prove continuous contact with patients infected with communicable disease on regular or routine basis. In fact, they prove that the applicants are detailed only for 2 and 3 weeks in a year for M.I. Room duty, which is not exclusively for driving ambulance or patient related duties and that if at all they have any contact with stretcher or patients infected with communicable disease, it is of occasional nature.

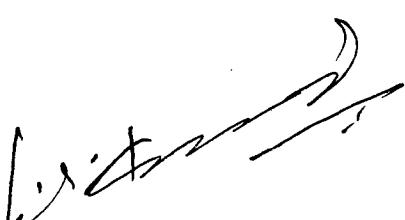
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11. HPCA is not granted to all Group 'C' employees. It is limited to those Group 'C' and 'D' employees whose regular duties involve continuous and routine contact with patients infected with communicable diseases or handling of infected articles. The applicants are Group-C employees with no regular contact with patients infected with communicable diseases or exposure to infected materials. Their occasional contact with patients or stretchers, if any, does not entitle them to HPCA as per Government orders. Therefore, there is no legal or factual basis for the claim of the applicants for HPCA.

12. Devoid of merit, the O.A. is dismissed with no order as to costs.

(Dated, this the 25th January, 2012)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


Dr. K B S RAJAN
JUDICIAL MEMBER

cvr.